

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Aftershock Ventures, LLC,
Petitioner-Appellant,

v.

City of Sioux City Board of Review,
Respondent-Appellee.

ORDER

Docket No. 09-107-0810
Parcel No. 8847-07-401-016

On September 16, 2010, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Aftershock Ventures, LLC was represented by Daniel Hiserote, and submitted evidence in support of its petition. The City of Sioux City Board of Review designated attorney Jack Faith as its legal representative and submitted evidence in support of its decision. The Appeal Board now having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Aftershock Ventures, LLC (Aftershock), owner of property located at 4224 Hickory Lane, Sioux City, Iowa, appeals from the Sioux City Board of Review decision reassessing its property. The real estate was classified commercial for the January 1, 2009, assessment and valued at \$786,100; representing \$177,600 in land value and \$608,500 in the improvement value. Aftershock protested to the Board of Review on the grounds that the property is not equitably assessed under Iowa Code section 441.37(1)(a); and the property was assessed for more than authorized by law under 441.37(1)(b). In response to the protest the Board of Review notified Aftershock the January 1, 2009, assessment would not be changed, stating, "insufficient evidence presented to prove assessment is excessive."

Aftershock then appealed to this Board on the single ground of assessed for more than authorized by law. This Board will not consider the ground of equity. Aftershock seeks \$108,200 in relief and values the property at \$677,900.

According to the property record card, the subject property is a child day-care center that was built in 1984. The property is a one-story frame structure in normal condition with 6435 square feet of main area. The property has a 5226 square foot addition built in 2008.

Dan Hiserote, the owner of Aftershock testified that the child care center is not in a prime location and a block off a primary traffic street. Hiserote believes the property and land should not be assessed at the same rate as more visible locations with traffic counts twenty times higher than on Hickory Lane. Hiserote testified that the subject land is assessed at a rate comparable to a better location. Aftershock purchased the adjoining land to the subject property in 2007 for \$1.85 per square foot. He believes Aftershock paid a premium because of the need to expand. This Board agrees the purchase of adjoining land is an abnormal sale because the owner usually pays a premium for the purchase of adjoining land. *See Iowa Code § 441.21(1)(b)*

Hiserote also opines the correct value for both parcels of property should be \$634,663. However, this appeal includes only one parcel. Hiserote compared his assessment to other property in the jurisdiction that was assessed lower than the subject property. Aftershock submitted evidence that the total cost for the property is \$718,000. This would include the original purchase of \$337,000, the additional land at \$65,000 (not included in appeal), and \$316,000 for the 2008 addition.

Dan Parker, Deputy Sioux City Assessor, testified on behalf of the Board of Review. Parker testified that he valued the subject property by using the *Iowa Real Property Appraisal Manual*. This was done by using the Vanguard CAMA System (Computer Assisted Mass Approach). Parker did not use the market approach (sales comparison) or the income approach. Parker stated that he believed this was not an income producing property. Parker stated he did only the cost approach. When

questioned what he used to determine the land value for the subject property, Parker stated he relied on the sale information in the computer designated as "C-22". Parker also testified the classification of the subject property is based on highest and best use, not current use. Parker stated the sales in "C-22" included land sales in a different area than the subject property and in a new development that could be viewed from the expressway.

This Board notes, contrary to Parker's testimony, the subject property is income producing and could be valued by the income approach and that classification is based on current use, not highest and best use. *See* Iowa Admin. Code r. 701-71.1(1). Further, Parker's answer that essentially the computer did it for him is not acceptable. As a person assessing the property he should have the knowledge of the computer system and be able to verify his work using another method. Additionally using sales from a better location and a new development only compounds the problems surrounding the valuation of the subject property's land value. Parker did not even have knowledge of whether his data included arms-length transactions.

This Board finds that Parker's testimony added no value to the support of the Board of Review's assessment. However, we also find that Aftershock has not proven what the correct value should be for the subject property. Therefore, we must affirm the assessment.

Conclusions of Law

The Appeal Board based its decision on the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2009). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or

additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. Iowa Code section 441.37A(3)(a).

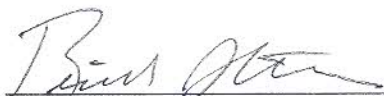
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sales prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Findings are "based upon the kind of evidence on which reasonably prudent persons are accustomed to rely for the conduct of their serious affairs." Iowa Code § 17A.12.

Viewing the evidence as a whole, we determine that substantial evidence is lacking to support Aftershock's claim of over-assessment as of January 1, 2009. Aftershock did not provide data to support what the assessed value should be. We, therefore, affirm the Aftershock property assessment as determined by the Board of Review. The Appeal Board determines that the property assessment value as of January 1, 2009, is \$786,100; representing \$177,600 in land value and \$608,500 in improvement value.

THE APPEAL BOARD ORDERS that the January 1, 2009, assessment of the Aftershock property located in Sioux City, Iowa, as determined by the City of Sioux City Board of Review is affirmed.

Dated this 21 day of October, 2010.



Richard Stradley, Presiding Officer



Karen Oberman, Chair

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on 10-21, 2010.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other

Signature

